IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

MACA.No. 561 of 2003()

OPMV.505/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANT/PETITIONER:

P.U. JOHN, S/O. ULAHANNAN, 47 YEARS,
PONNANIKKATTU HOUSE, POOKKOTTUMPADAM P.O.

BY ADV. SRI.M.K.DAMODARAN
SRI.V.M.KURIAN(JR.)

RESPONDENTS: RESPONDENTS:
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1. CHIRAMMAL CHANDRAN, S/O. CHEKKU,
CHIRAMMAL HOUSE, THELPARA, MOMBANKALLU,
AMARAMBALAM, P.O. KAVALAMUKKATTA.

2. N.M. MOHANAN, S/O. KRISHNAN NAMBOODIRI,
MAAZHOOR MANA, P.O. PUNNAPPALA,
PUTHUPARAMBU (OWNER).

3. UNITED INDIA INSURANCE CO.LTD.,
NILAMBUR.

BY ADV. SRI.A.R.GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

M.A.C.A.NO. 561 OF 2003

Dated this the 26th day of February, 2007

JUDGMENT

Raman,J.

Claimant is the appellant. He met with a road accident on 4/5/1996 while travelling in a scooter. As a result of the accident he suffered serious injuries. He was aged 47 at the time of the accident. He was a Village Officer, who had been awarded a merit certificate by the Kerala Saksharatha Samithi for his exemplary service in the implementation of total literacy programme among the Adivasis in the Kerala State. At the time of accident he was receiving a monthly salary of Rs.4,500/-. He claimed a total amount of Rs.12,00,000/- by way of compensation. The Tribunal awarded

compensation under various heads totalling to Rs.7,87,300/- with 9% interest from the date of petition till realisation. The petitioner claims further enhancement by filing this appeal.

2. Heard both sides.

3. The Tribunal has referred to the various injuries sustained by the claimant in paragraph 7 of the award and the number of surgeries he underwent. He had a head injury, diffuse brain injury, diffuse axonal injury and fracture base of skull and subarachanoid hemorrhage. It is contended that he is leading a vegetable life. He could not thereafter continue his job. He was on leave without pay till his retirement. The Tribunal awarded an amount of Rs.36,000/- as against the claim for loss of earnings of Rs.50,000/-. This was after taking into consideration the loss of

earnings as on the date of the petition. Claimant has produced Annexure-A certificate issued by the Tahsildar, Nilambur. From the certificate, Annexure-A it is evident that he would have received a salary of Rs.4,56,924/-, if he had continued in service. Therefore, this is the amount which he had lost, which has been after taking into consideration for the purpose of fixation of the compensation awardable under the head loss of earnings. An amount of Rs.3,219/- was already drawn by the petitioner as leave salary. Hence, the salary which he lost would come to Rs.4,53,705/-. An amount of Rs.36,000/- has already been awarded towards loss of earnings. The balance will come to Rs.4,17,705/-. But the Tribunal while awarding compensation under the head "disability" has taken a multiplier of 13 and if he is entitled for the full salary by way

of loss of earning, then necessarily his age to be taken for the purpose of fixing the multiplier; is his age of retirement. Then the multiplier to be adopted in this case would be 8. On a re-calculation, we find that if 8 is adopted as a multiplier, he will be entitled for disability compensation of Rs.1,72,800/- instead of Rs.2,80,800/- as already awarded. Hence, he has been paid excess amount of Rs.1,08,000/- under this head. Taking into account all these aspects a further amount towards loss of earnings to be awarded is assessed at Rs.3,09,705/-. Even though it is contended that he has not been awarded compensation towards future medical expense, we find that the Tribunal has kept this in mind while awarding compensation towards medical expense, since over and above the amount as proved by the medical bills produced

in this case, an amount of Rs.33,000/- has been awarded. Hence we do not think any further enhancement could be granted under this head.

4. In the circumstances, over and above the amount already awarded by the Tribunal the appellant will be entitled for a further amount of Rs.3,09,705/- which will carry interest at 7% from the date of petition till realisation.

Appeal is allowed as above.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.